File No. 54-1905

Serial Nos. 164

1905.

GENERAL AND REVENUE SECRETARIAT.

(Jef. Rec.

Part A: Manuscript
for Novemb 1905

Serial Nos. 164

Application of Claim only on a Sale deed for Rs 2000/. of the 20 Acres 00 Cents Ceded by Mrs. Doraisamma Rao Coffee Planter Chikmagalur, in favor of Sahukar Subbiah Chetty of Benur

G. R. S. 11]

GENERAL AND REVENUE SECRETARIAT

(1 (11th Nov. 1903

NOTES.

File. No 5640

FILE HEADING.

Application of Nawab Ali Khan for a Sale deed for Rs. 2000, of the Patta No. [illegible] Khata No. [illegible] Chikkanayakanahalli Hobli of Kadiri Taluk Anantapur District

From

The Sub Collector of the Kadiri District.

No. 247 Dated the 25th Sept 1903 Received 28/30th Sept 1903.

Diary No. 1169 Enclos. Nil Spare Copies. Serial No.

BRIEF ABSTRACT OF LETTER.

Submitting for the orders of the Board Nawab Khan's application for a Sale deed on the ground mentioned in Sec. 24 of the Stamp Regulation claiming that executor is entitled to the same -

The Sub Collector of Chikkanayakanahalli has enquired into the case at length. He in his report No. 46 of 4th ultimo to the Tahsildar of Kadiri District, one abstract of which is given in

NOTES—First sheet.

MGCPB—30,000—17-2-05

C.P.S. 121
General and Revenue
Secretariat.

S-14 File No. 54 of 1905

Serial No.

The Letter under disposal

2. In Sec-56 Clause 2 of the Stamp

Act, 1 of 1900 it is stated

that "the Court feels doubt

he may draw up a statement

of the case, and refer it with his

own opinion thereon, for the

decision of the Chief Controlling

Rev. Authority" In the present

case neither the Court has not

expressed his opinion

one way or other

Clerk 7.4.14 3/10/05

3/10/05 J.M.K. It is clear, that the

two mortgagees have severed

their joint interest in the mort-

gaged property and the mortgagor

has re-assigned the arrangement

[illegible] is thought to make the ap-

plicability of the Proviso to Sec

34 of the Stamp Regulations

doubtful to the present case.

The question now is whether

the Proviso which provides for

the case where the property sub-

ject to a mortgage is trans-

Note.—Contin. sheet.

MGCPB—50,000—17.2.05

G.R.S. 12]
General and Revenue Secretariat.

C.1/9 File No. 54 of 1905

Serial No

transferred to the mortgagee can be held applicable to, where the simple mortgage is either one of several mortgages, each possessing all the incidents of a complete and independent mortgage.
4. The section is one which has given considerable difficulty in its working and therefore no authoritative solution of the present difficulty could be pointed out. The intention of the Legislature in directing that duty already paid upon the mortgage deed, to cover that of the subsequent transfer, seems to be, that it is obviously not fair to levy the full duty on sale, upon a transaction, which though it is unfortunate to be a sale, is actually a transfer of only the remaining interest left with the mortgagor, namely the equity of redemption the often substantial interest in the property having already

NOTE.—Contn. sheet.

MGCPB—50,000—17.2.05

erial No.

passed under the Mortgage. In this view of the question the benefit of the Proviso may be extended to the present Case. I. N. is to be afraid that this will be holding out to some extent a premium to fraud and evasion of Stamp Duty; and specially in the apprehension entertained in Cases such as the present one, where the mortgaged Coffee lands have been sold to the mortgagee, for a ..... Consideration less than, what it was mortgaged for. The present Case, however, though having this somewhat strange and suspicious appearance about it, has to be considered in another aspect also, when it shows, that the transaction is genuine. Property is liable to depreciation in value and notoriously so has it been the case with Coffee lands of late and it is unreasonable to expect, that in all Cases, the value of property,

NOTE—Contn. sheet.

MGCPB—50,000—17-2 05.

Serial No.

mortgagee should either appeal
continue to be either as usual
or excess the mortgage amount,
though it is so small. There
is therefore nothing improbable
in the fact of the mortgaged
Coffee lands having come down
in value to that mentioned
in the sale deed & does not
seem fair to construe the Proviso
too closely on the line on the last-
mentioned reason

ab Hon

N. K.
W.D.
6.10.05

Please refer to Govt. Circular
of the Regulation and ask him to comply
with the requirements. We may refer the
question of the interest which he claims
after the receipt of the Collr's reply.

Sd/- Subramania Chetty
10-10

Draft ruled Corey
Sd/- K. Rose
6-10-05

Sd/- B. K. Venkatarama Iyer
6-10-1905

2 | To Rev. Dy. Comr. Madura
No K 2549 & Hon 20. Oct. 05

NOTE—Contn. sheet.

G.R.S. 12]
General and Revenue Secretariat.

(6).

S/h File No. 54 of 1905

Serial No.

Returns the enclosures for reference & recommendation with his opinion on the question at issue in connection with Nos. 5 of the Stamp Regulation from 4th to 19th Court Vacation to No. 536 of the 5th Oct. 05.

Returns the record stated that to the mortgage deed & the dissolution of partnership marginal noon duly stamped & is referred he is of opinion that Mrs. Meenakshi Pasa entitled to the benefit of Sec. 26 of the Stamp Regn.

Submitted for orders

9.11.05

Hon. I ask for the

9.11.05 favor of the Dr: Law

Opinion?

9.11.1905

Received 9.11.05

Noted 10.11.05

This is a case where a half share of a property originally mortgaged to two persons for Rs 13,000 is now conveyed to one of them for a consideration consisting of the payment of Rs. 2000 and the remission

NOTE.—Contn. sheet.

MGOP S—50,000—17-2-05

G.R.S. 12

General and Revenue Secretariat.

(7)

S.R File No. 56 of 1905

Serial No.

x plus any interest thereon

of the sale ~~to be~~ due to him Rs. 4555 under section 24 of the Stamp Act, the ~~~~ of the mortgage money is undoubtedly part of the consideration, which, according to Rs. 6555, plus interest @ 6% per annum on the mortgage money. I see no valid reason why the relevant section should be left out of account.

As regards the right to deduct ~~the~~ society's dues, but paid on the mortgage from the money payable on the sale, I am of opinion that the vendor ought to be succeeded to the vendor-mortgagee equally with the vendee-mortgagor. The mention of the latter alone in the proviso is because, ordinarily, in the absence of an agreement to the contrary the debt is to be paid by the transferee. The obligation of the transferor ~~~~ where the debt is to be paid by the transferee ~~~~ the transferor ~~~~ of account.

A draft as above is submitted.

K.S. Chapparia Sahiba 11/1908

Note—Contn. sheet.

G.R.S. 121

General and Revenue Secretariat. 500—

S. & P File No. 54 of 190 5

(8)

Serial No.

Draft-Sale deed to vary Thumbu Dehut Seen
J Saliyanai Chetty

Received at Secy

Subd

K.S. Groundsettan

Issued to B.K. Venkatasawmy Avg 2/9

4 To the Dy Comr Madura & Under Comrs of other Distts
No Registration Genl. & Registration
No 21 3/4/6 - 16. & Item 17 - Nonoos
Objection taken the right
to deduct a moiety of the Stamp
duty paid on the mortgage from
the duty payable on the sale
deed to be executed to them.

Note.—Contn. sheet.]

MGCPB—50,000—17.2.05

From

The Deputy Commissioner
Lahore Dt

To

The Secretary to Govt of Punjab
General & Rev Secretary.

Dated

Despatched 27th Sept 1905

Received.

General No. 247
No.

Enclosure No. one Cin. file

[illegible]

a seale deed executed by the Sufi Rajeswar
of Chhimaratan for [illegible]
of [illegible]

~~Chikmagalur 25th~~ September 05

From

Mr. Thangiah Chetty, Esq, B.A.
Deputy Commissioner
Kasaragodu.

To

B. K. Venkatarangadiengar Esq
Secretary to the Govt of Mysore
(General & Revenue) Dept
Bangalore

Sir, Letter no. 247 C. dt 25th September 1905.

Serial No 1.

I have the honor to submit herewith for orders of Government a sale deed of Rs 200-0-0 dated the 20th April 1905 executed by one Mr. Sreenivasa Rao, in favor of Sahukar Sreenivas Iyengar. The document was presented for registration before the Sub-Registrar of Chikmagalur on the 3rd instant, who, for reasons stated in his report No. 16 dated 4th August 1905 (herein enclosed) impounded it and submitted to me for adjudication of stamp duty.

the facts of the case briefly as follow

Mr Sreenivasa Rao had executed a mortgage deed for Rs 13,110/- on a stamp paper of the value of Rs 60-8-0 in favor of sahukars Sreenivas Iyengar and Ramaraju who were at the time carrying on business as merchants in co-partnership. This deed was duly registered in the Thikriaguda sub-[illegible] of [illegible] Vide No 581 of 1901-02 of Book No I). the four concern was subsequently dissolved, and the parties thereto amongst other things, the amount due by Mr Sreenivas Rao in equal shares. In pursuance of this agreement Mr Sreenivasa Rao has conveyed an undefined half of the mortgaged property

to one of the mortgagees in satisfaction of his claims for Rs 2,000/-, getting the balance of the debt remitted. Mr Sreenivasa Rao has executed his sale deed on one rupee Stamp paper under reference and stated in the document that he has done so under the proviso to Section 24 of the Stamp Regulation.

As there is some doubt as to the executant being entitled to the benefit of this section, taking the peculiar circumstances of the case into consideration, the document with the other records is submitted for the orders of Government.

I have the honour to be,
Sir,
Your most obedt servant

Offg. Deputy Commissioner
Kolar

G.R.S. 26]

File No. ~~54~~ 05

Serial No. 2

Diary No. of letter replied to 1429

From B. K. Venkatavaradaiyangar
Secy. G. P. and ... & Rev. Depts.

General and Revenue Secretaria

To The Deputy Commr & Dist Magte
Kadur District.

, *the* 1905

Docket no 2549 dy 20-10-1905
S No 2

Dated of issue 20-10-05

His letter no 247
dy the 25th September 1905
forwarding for the orders
of Government a sale deed
for Rs 20001 dy the 20th April
1905 executed by Mr C. Sprott
vasool Rs. Coffee planters
in Chikmagalur in favour
of Sahukari Sreenivasiengar
& Bro

Signed by Inv. B. K. Venkatavaradaiyangar.
Secy & No 2

In returning the
enclosures received with
the above has the honor
to ~~invite reference to~~
~~See 56 of the Stamp~~

over.

the papers relating to
levy
the ~~issue~~ of stamp duty
on

SUBJECT.

Copied in Press

~~Regulation II of 1900~~

request that the same

may be re-submitted

~~Proof~~ with his opinion on the question at issue
~~of alien complying~~

~~with the requirements~~
in conformity with
of Sec. 5b of the Stamp

Regulation II of 1900

B.C.

16.10.1905

Secretary

Secretary
16.10.05

14-10-05

List of enclosures.

1. Memo. & Draft with

deed.

Copied by

Examined by

MGCPB—30,000—16-2-05

S&K 5A-035 8 (3) 8 S&K
2-11-05

1905 D. 1854

From The Deputy Commr
Madura District

To The Secretary to the Govt of Madras
General and Revenue depto

Dated 31st October 1905

Despatched

Received

General No. 336

No.

Enclosure No. - as file

Furnishing opinion
re levy of stamp duty on a
sale deed executed by Mrs.
Srinivasa Rao in favor of
Srinivasacharyar on the

Chikmagalur 31st October 1905

From

M. Chengiah Chetti Esq, B.A.
Offg: Deputy Commissioner
Kadur District

To

B. N. Venkatavaradiengar Esq
Secretary to the Govt of Mysore
General and Revenue Depto

Letter no 336 G. & R. dt 30 Oct. 05

Sir,

With reference to your docket No 2549 / G.R. 54-05-2 dated the 20th instant, calling for my opinion regarding the levy of stamp duty on a sale deed executed by Mr C. Srinivasa Rao in favor of Sahukar Srinivasiengar of Birur, I have the honor to state that the mortgage deed and the dissolution of partnership having been duly stamped and registered, Mr Srinivasa Rao is, I think, entitled to the benefit of Section 24 of the Stamp Regulation.

2. The enclosures received with the above are herewith resubmitted.

I have the honor to be,

Sir,

Your most obedt Servant,

Offg: Deputy Commr
Kadur Dist

G.R.S. 281.

File No. 57 of 05

Serial No. 4

Diary No. of letter replied-to 1854

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.

READ.—

the 1 — VI — 1906 | Copy/consent according with reference no. 3316 dated 31st October from the Dy. Comr. of the Kadur [illegible] Dy. Commissioning for the release of Certificate of Sale deed No. 72 2000/ dated 20th April 1905 of release, Non-encumbrance [illegible] Kannagalam in favour of Subbiah & Ramiah in respect of Subbiah's Share of a coffee estate [illegible] mortgaged by the former

Date of issue—

Signed by [illegible]

ORDER THEREON.—No.

the Kadur

SUBJECT

to the latter and another for Rs. 13,110/- and stating that Nur Ibrahim Rao claims the benefit of the proviso to Sec. 24 of the Slaves Regn. II of 1900

Ref. 3166-74 dt 17-11-05
S.R. 54-05-4

This is a case where a half share of the property originally mortgaged to two persons for Rs 13,110/- is now conveyed to one of them for ~~consideration consisting of the payment of~~ Rs 2,000/- and the remission of the balance due to him viz Rs 4555 /- plus ~~accrued~~ interest thereon. Under Section 24 of the Slaves Regulation, the release portion of the mortgage

Serial no 4

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

money is undoubtedly part of the consideration which, according to amounts to Rs 6555 is then interest & any on seven mortgage money. Govt see no valid reason why the released portion should be left out of account to regards the right to deduct a moiety of the Stamp duty paid on the mortgage from the duty payable on the sale. Govt are of opinion that the said right ought to be conceded to the Vendor-mortgagor equally with the Vendee-mortgagee. The mention of the latter alone in the proviso to the explanation in s. See. 24 is because, in ordinarily and in the absence of an agreement to the contrary, the duty in the case of a conveyance is borne by the grantee.

The Spirit of the rule enacted in the proviso requires that, where the duty is borne by the grantor, he should likewise have the benefit of the deduction

14.11.15

Secretary

To the Hy. Comrs. of the Stamp Office

Dublin, returning the file of papers

The Hy Comrs of Attendants &

The Inspector Genl. of Registrations

ORIGINAL

1905

FILE No. 54 OF 1905-06.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

PROCEEDINGS OF THE GENERAL AND REVENUE DEPARTMENT

SEPARATE REVENUE.

NOVEMBER

"A" Collection Serial Nos. 1—4

Claim of Mr. C. Srinivasa Rao, coffee planter, Chikmagalur, to the benefit of the proviso to the explanation in Section 24 of the Stamp Regulation, II of 1900, in respect of a sale deed executed by him in favor of Srinivasiengar of Birur for Rupees 2,000.

Serial No. of File	Number and date of letter and contents.	References	Page in A Progs.
1	From the Deputy Commissioner, Kadur District, No. 247, dated 25th September 1905. Submits for the orders of Government the above sale deed dated the 20th April 1905, in respect of a half share of the coffee estate that had been previously mortgaged by Mr. Srinivasa Rao to Srinivasiengar and another for Rs. 13,110 and stating that the former claims the benefit of the proviso to the explanation in Section 24 of the Stamp Regulation, II of 1900.		
2	To the Deputy Commissioner, Kadur District, No. Fl. 2549, dated 20th October 1905. Returns the record for reference and resubmission with his opinion on the question at issue in conformity with Section 56 of the Stamp Regulation.		
3	From the Deputy Commissioner, Kadur District, No. 336, dated 31st October 1905. Resubmits the record and states that as the mortgage deed and the dissolution of partnership between Srinivasiengar and another having been duly stamped and registered. Mr. Srinivasa Rao is entitled to the benefit claimed		
4	To the Deputy Commissioners of the Kadur and other Districts and the Inspector-General of Registration, No. Fl. 3166-74, dated 17th November 1905. Observes that the right to deduct a moiety of the Stamp duty paid on the mortgage from the duty payable on the sale ought to be conceded to Mr. Srinivasa Rao		

1905.

GENERAL AND REVENUE SECRETARIAT.

(SEPARATE REVENUE.)

FOR NOVEMBER

NOTES

FILE No. 54 OF 1905-06.

Adjudication of Stamp duty on a sale deed for Rs. 2,000, dated the 20th April 1905, executed by Mr. C. Sreenivasa Rao, Coffee planter, Chikmagalur in favor of Sahukar Sreenivasiengar of Birur.

From the Deputy Commissioner of the Kadur District, No. 247, dated the 25th September 1905.

Submits for the orders of Government the above sale deed as he doubts if the benefit of the proviso to Section 24 of the Stamp Regulation claimed by the executor is applicable to the case.

1. The Sub-Registrar of Chikmagalur has argued the case at length in his report No. 16 of the 4th August 1905, to the Deputy Commissioner of the Kadur District, an abstract of which is given in the letter under disposal

2. In Section 56, clause 2 of the Stamp Regulation, II of 1900, it is stated that if the Deputy Commissioner feels doubt... .....he may draw up a statement of the case, and refer t, with *his own opinion* thereon, for the decision of the Chief Controlling Revenue authority, In the present case the Deputy Commissioner has not expressed his opinion.

Submitted for orders.

T. G. K. N. K,
3-10-05.

It is clear, that the two mortgagees have severed their joint interest in the mortgaged property and the mortgager has recognised the arrangement. This is the circumstance, which is thought to make the applicability, of the proviso to Section 24 of the Stamp Regulations, doubtful to the present case. The question now is, whether the proviso, which provides for the case, where the " property, subject to a mortgage, is transferred to the mortgagee, " can be held applicable to, where the single mortgage is split up into several mortgages, each possessing all the ncidents of a complete and independent mortgage.

4. The Section is one, which has given considerable difficulty in its working and therefore no authoritative solution of the present difficulty could be pointed out. The intention of the Legislature in directing the duty, already paid upon the mortgage deed, to count towards that of the subsequent transfer, seems to be, that it is obviously not fair, to levy the full duty of sale, upon a transaction, which, though purporting to be a sale, is actually a transfer of only the remaining interest left with the mortgager, namely the Equity of redemption, the other substantial interest in the property having already passed under the mortgage. In this view of the question, the benefit of the proviso may be extended to the present case

5. It is to be afraid that this will be holding out to some extent a premium to fraud and evasion of stamp duty ; and specially is the apprehension emphasised in cases such as the present one, where the mortgaged coffee lands have been sold to the mortgagee for an amount considerably less than, what it was mortgaged for. The present case, however, though having this somewhat strange and suspicious appearance about it, has to be considered in another aspect also, which shows, that the transaction is genuine. Property is liable to deterioration in value and ntoriously so has it been the case with coffee lands of late and it is unreasonable to expect, that in all cases, the value of property, mortgaged, should continue to either equal or exceed the mortgage amount, though it is so generally. There is therefore nothing improper in the fact of the mortgaged coffee lands having come down in value to that mentioned in the sale deed. It does not seem fair to construe the proviso too closely on the line of the last illustration to Section 24

N. K.
9-10-05.

Please refer the Deputy Commissioner to Section 56 of the Regulation and ask him to comply with its requirements. We may refer the question to the Judicial branch for opinion after the receipt of the Deputy Commissioner's reply.

T. SATYARAJ CHETTY.
14-10-05.

Draft submitted to Secretary.

T. G. K.
14-10 05

T. SATYARAJ CHETTY.
14-10-05.

Passed.

B. K. VENKATA VARADA IYENGAR,
16-10-05.

(2) *To the Deputy Commissioner, Kadur, No. Fl. 2549, dated the 20th October 1905.*

Returns the enclosures for reference and re-submission with his opinion on the question at issue in conformity with Section 56 of the Stamp Regulation.

(3) *From the Deputy Commissioner, Kadur District, No. 336, dated the 31st October 1905.*

Re-submits the record and states that as the mortgage deed and the dissolution of partnership having been duly stamped and registered, he is of opinion that Mr. Srinivasa Rao is entitled to the benefit of Section 24 of the Stamp Regulation.

Submitted for orders.

T. G. K. N. K.,
9-11-05.

May I ask for the favor of the Deputy Secretary's opinion.

B. K. VENKATA VARADA IYENGAR.
9-11-05.

This is a case where a half-share of property originally mortgaged to two persons for Rs. 13,110, is now conveyed to one of them for a consideration consisting of the payment of Rs. 2,000 and the remission of the balance due to him *viz.*, * Rs. 4,555. under Section 24 of the Stamp Regulation, the released portion of the mortgage money is undoubtedly part of the consideration, which, accordingly, amounts to Rs. 6,555, plus interest, if any, on such mortgage money. I see no valid reason why the released portion should be left out of account.

* Plus any interest thereon.

As regards the right to deduct a moiety of the stamp duty paid on the mortgage from the duty payable on the sale, I am of opinion that the said right ought to be conceded to the vendor-mortgager equally with the vendee-mortgagee. The mention of the latter alone in the proviso to the explanation in Section 24 is because, ordinarily and in the absence of an agreement to the contrary, the duty in the case of a conveyance is borne by the grantee. The spirit of the rule embodied in the proviso requires that, where the duty is borne by the granter, he should have the benefit of the deduction.

K. S. CHANDRASEKHARA IYER.
11-11-05.

Draft submitted to Secretary through the Deputy Secretary.

T. G. K.
13-11-05.

T. SATYARAJ CHETTY.
13-11-05.

N. K.
14-11-05.

Submitted.

K. S. CHANDRASEKHARA IYER.
14-11-05.

Passed.

B. K. VENKATA VARADA IYENGAR.
14-11-05.

(4) *To the Deputy Commissioner, Kadur, the Deputy Commissioners of other Districts and the Inspector-General of Registration, No. Fl. 3166-74, dated the 17th November 1905.*

Observes that the right to deduct a moiety of the stamp duty paid on the mortgage from the duty payable on the sale ought to be conceded to Mr. Sreenivasa Rao.

Proceedings of the Government of His Highness the Maharaja of Mysore, Separate Revenue, November 1905.

Claims of Mr. C. Srinivasa Rao, Coffee Planter, Chikmagalur Taluk, to the benefit of the proviso to the explanation to Section 24 of the Stamp Regulation, II 1900, in respect of a sale deed executed by him in favor of Srinivasiengar, Birur, for Rs. 2,000.

FILE No. 54 of 1905.

From M. Chengiah Chetty, Esq., B.A., Offg. Deputy Commissioner, Kadur District, to B. K. Venkata Varada Iyengar, Esq., Secretary to Government of Mysore, General and Revenue Dept., letter No. 247, dated the 25th September 1905.

Serial. No. 1

I have the honor to submit herewith for orders of Government a sale deed of Rs. 2,000, dated the 20th April 1905, executed by one Mr. Srinivasa Rao, in favor of Sahukar Srinivasiengar. The document was presented for registration before the Sub-Registrar of Chikmagalur on the 3rd instant, who, for reasons stated in his report No. 16, dated 4th August 1905 (herein enclosed) impounded it and submitted to me for adjudication of stamp duty.

The facts of the case are briefly as follows :—

Mr. Srinivasa Rao had executed a mortgage deed for Rs. 13,110 on a stamp paper of the value of Rs. 67-8-0 in favor of Sahukar Srinivasiengar and Parvatappa, who were at the time jointly carrying on business as merchants in co-partnership. This deed was duly registered in the Chikmagalur Sub-Registrar's office (*vide* No. 581 of 1901-02 of book No. I). The joint concern was subsequently dissolved, and the parties thereto divided, among other things, the amount due by Mr. Srinivas Rao in equal shares. In pursuance of this agreement Mr. Srinivasa Rao has conveyed an undefined half of the mortgaged property to one of the mortgagees in satisfaction of his claims for Rs. 2,000, getting the balance of the debt remitted. Mr. Srinivasa Rao has executed his sale deed on one rupee stamp paper under reference and stated in the document that he has done so under the proviso to Section 24 of the Stamp Regulation.

As there is some doubt as to the executant being entitled to the benefit of this section, taking the peculiar circumstances of the case into consideration, the document with the other records is submitted for the orders of Government.

From B. K. Venkata Varada Iyengar, Esq., Secy. to Govt., Gen. and Rev. Dept., to the Deputy Commissioner of the Kadur District, docket No. 2549, dated 20th October 1905.

Serial No. 2.

His letter No. 247, dated the 25th September 1905, submitting for the orders of Government the papers relating to the levy of stamp duty on a sale deed for Rs. 2,000, dated the 20th April 1905, executed by Mr. C. Srinivasa Rao, Coffee Planter in Chikmagalur, in favor of Sahukar Srinivasiengar of Birur.

In returning the enclosures received with the above, has the honor to request that the same may be re-submitted with his opinion on the question at issue in conformity with Section 56 of the Stamp Regulation, II of 1900.

From M. Chengiah Chetty, Esq , B. A., Offg. Deputy Commissioner, Kadur District, to B. K. Venkata Varada Iyenyar, Esq., Secy. to Govt. of Mysore, Gen. and Rev. Dept., letter No. 336, dated the 31st October 1905.

Serial No. 3.

With reference to your docket No. Fl. 2549—S. R. 54-05-2, dated the 20th instant, calling for my opinion regarding the levy of stamp duty on a sale deed executed by Mr. C. Srinivasa Rao in favor of Sahukar Srinivasiengar of Birur, I have the honor to state that the mortgage deed and the dissolution of partnership having been duly stamped and registered, Mr. Srinivasa Rao is, I think, entitled to the benefit of Section 24 of the Stamp Regulation.

2. The enclosures received with the above are herewith re-submitted.

Claims of Mr. C. Srinivasa Rao, Coffee Planter, Chikmagalur Taluk, to the benefit of the proviso to the explanation to Section 24 of the Stamp Regulation, II of 1900, in respect of a sale deed executed by him in favor of Srinivasiengar, Birur, for Rs. 2,000.

To the Deputy Commissioner of the Kadur District, the Deputy Commissioners of other Districts and the Inspector-General of Registration. No. Fl. 3166-74—S. R. 54-05-4, dated 17th November 1905.

Serial No 4.

This is a case where a half share of the property originally mortgaged to two persons for Rs. 13,110 is now conveyed to one of them for Rs. 2,000 and the remission of thebalance due to him, *viz.*, Rs. 4,555 *plus* interest thereon. Under Section 24 of the Stamp Regulation, the released portion of the mortgage money is undoubtedly part of the consideration, which, accordingly, amounts to Rs. 6,555 *plus* interest, if any, on such mortgage money. Government see no valid reason why the released portion should be left out of account.

2. As regards the right to deduct a moiety of the stamp duty paid on the mortgage from the duty payable on the sale, Government are of opinion that the said right ought to be conceded to the vendor-mortgagor equally with the vendee-mortgagee. The mention of the latter alone in the proviso to the explanation in Section 24 is because, ordinarily and in the absence of an agreement to the contrary, the duty in the case of a conveyance is borne by the grantee. The spirit of the rule embodied in the proviso requires that, where the duty is borne by the grantor, he should likewise have the benefit of the deduction.